

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE  
FOR THE TWENTIETH JUDICIAL DISTRICT AT NASHVILLE

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STATE OF TENNESSEE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. _____
	)	
CAPE CANAVERAL CRUISE LINE )		
TOUR AND TRAVEL, INC., AND )		
PROMOTIONAL TRAVEL, INC., )		
	)	
Defendants.	)	

COMPLAINT

This civil action is brought in the name of the State of Tennessee, by and through Paul G. Summers, Attorney General and Reporter ("Attorney General"), pursuant to Tenn. Code Ann. §§ 47-18-108(a)(1) and 47-18-114, at the request of the Division of Consumer Affairs of the Tennessee Department of Commerce and Insurance (the "Division"), having reason to believe that the Defendants named herein have violated the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. §§ 47-18-101, *et seq.*, and that this action is in the public interest.

I. JURISDICTION AND VENUE

1. The jurisdiction of this Court is invoked pursuant to the provisions of Tenn. Code Ann. § 47-18-108. Venue is proper in Davidson County, pursuant to the provisions of Tenn. Code Ann. § 47-18-108(a)(3), because it is a county in which Defendants have conducted business. (An Affidavit and Verification of David A. McCollum, Director, Division of Consumer Affairs, Department of Commerce and Insurance, is attached hereto as Exhibit A.)

II. PARTIES

2. Pursuant to Tenn. Code Ann. §§ 47-18-108(a)(1) and 47-18-114, this action is commenced in the name of the State of Tennessee, by Paul G. Summers, the Attorney General and Reporter, on behalf of and at the request of the Division of Consumer Affairs. (See Exhibit A.)

3. Upon information and belief, Defendant Cape Canaveral Cruise Line Tour and Travel, Inc., is a Florida corporation that has been and is engaged in the sale of vacation packages in Florida and elsewhere. Defendant's headquarters are located at 501 North Wymore Road, Winter Park, Florida 32789. It is not presently registered to do business in the State of Tennessee and does not have a registered agent for service of process.

4. Defendant Promotional Travel, Inc., is a currently inactive Florida corporation which was engaged in the sale of vacation packages in Florida and elsewhere. Defendant's headquarters were located at 407 Whooping Loop, Suite 1679, Altamonte Springs, Florida 32701.

### **III. FACTUAL ALLEGATIONS**

Upon information and belief, the State alleges as follows:

5. Defendants market and sell vacation packages to consumers in Tennessee and throughout the United States. These vacation packages typically offer trips to the Bahamas and/or Florida consisting of accommodations, some meals and travel on a cruise ship.

6. Defendants have advertised these vacation packages in Tennessee through the use of postcards, travel certificates and similar mass mailings in which consumers are asked to respond by calling a toll-free telephone number.

7. Defendants' solicitations lead consumers to believe that they are among a select group of individuals chosen to receive a free or low-cost vacation to Florida and the Caribbean. In fact, consumers are not members of a select group chosen to receive the vacation because Defendants have sent out thousands of these solicitations.

8. The mass mailings direct consumers to "Pack Your Bags," and represent that "you will receive a Spectacular 8 Day/7Night Dream Vacation." The solicitations do not disclose the price of the trip and lead consumers to believe that the trip is free. In fact, the vacations which Defendants market are neither free nor low-cost.

9. The mass mailing solicitations and the telemarketing calls do not inform consumers that, while they are on the vacations, they will be required or pressured to attend a high-pressured timeshare sales presentation.

10. In connection with its marketing and selling of vacation packages, Defendants, through both written materials and telemarketing, have engaged in a pattern of untrue, misleading and deceptive representations, including but not limited to the following:

a. Misrepresenting, directly and by implication, that consumers have won a vacation package and/or that they need not pay for the vacation package;

b. Omitting material facts from promotional materials, including the fact that the consumer is responsible for paying certain costs of the vacation, the fact that the consumer may be required or pressured to attend a timeshare tour or other sales presentation and identification of goods and services that are not included in the price of the vacation;

c. Misrepresenting the purpose of Defendants' offer of a vacation package, including stating that the purpose of the offer is to "familiarize" and to engender "word of mouth advertising" and repeat vacation business, when the actual purpose is to sell vacation packages and timeshares;

d. Creating a false sense of urgency, including misrepresenting that consumers have a limited time within which to buy, that the number of offers is limited and that eligibility is limited to a designated class of consumers, such as those who received Defendants' certificate, when in fact Defendants have not applied these limitations to all consumers;

e. Misrepresenting certain charges as "port fees" when in fact they are not paid to any governmental or quasi-governmental entity but merely offset cruise-related expenses;

f. Misrepresenting the price of the vacation by failing to include in the price the charges denominated as "port fees;"

g. Printing disclosures with type which is difficult to

read, or otherwise failing to clearly and conspicuously disclose all material conditions and limitations to Defendants' offer;

h. Using language, a logo or other form of communication which implies that Defendants or the contents of their communications are connected with the government or a governmental agency;

i. Implying that the recipient has been specially selected to receive a solicitation;

j. Failing to cancel contracts and provide refunds to consumers who request them even though Defendants have used deceptive solicitations, misrepresented the benefits of the vacation packages, and used high pressure sales tactics to sell such packages.

## **V. VIOLATIONS OF THE LAW**

11. The Defendants have violated Tenn. Code Ann. §§ 47-18-120, 47-18-124 and 66-32-101 *et seq.* by misrepresenting that recipients of their mail and telephone solicitations have won something of value through the use of language that has a tendency to lead a reasonable person to believe the same.

12. The Defendants have violated Tenn. Code Ann. §§ 47-18-120, 47-18-124 and 66-32-101 *et seq.* by misrepresenting that consumers receiving their mail and telephone solicitations are eligible to win something of value and by failing to disclose all material conditions which the consumer must meet to obtain the same.

13. The Defendants have violated Tenn. Code Ann. §§ 47-18-120, 47-18-124 and 66-32-101 *et seq.* by representing that recipients of their mail and telephone solicitations have been specifically selected in connection with the solicitation.

14. The Defendants have violated Tenn. Code Ann. §§ 47-18-120, 47-18-124 and 66-

32-101 *et seq.* by engaging in a continuing pattern of untrue, misleading or deceptive representations including, but not limited to, those set out in paragraphs 5 through 10.

15. The Defendants' solicitations and practices described above have the tendency and capacity to mislead consumers as to the cost, characteristics, benefits, qualities, or value of the vacation and have induced the consumers to make purchases they would not have made if misrepresentations were not made in violation of Tenn. Code Ann. §§ 47-18-120, 47-18-124 and 66-32-101 *et seq.*

16. All fees obtained by Defendants from consumers were obtained as a direct result of the Defendants' deceptive representations.

### **PRAYER FOR RELIEF**

WHEREFORE, PREMISES CONSIDERED, THE STATE OF TENNESSEE PRAYS:

(1) That this Complaint be filed without cost bond as provided by Tenn. Code Ann. §§ 20-13-101, 47-18-108 and 47-18-116.

(2) That process issue and be served upon Defendants pursuant to Tenn. Code Ann. § 20-2-201, requiring it to appear and answer this Complaint.

(3) That this Honorable Court adjudge and decree that Defendants have engaged in acts or practices in violation of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. §§ 47-18-101, *et seq.*, as previously set forth.

(4) That this Court permanently enjoin and restrain the Defendants from, directly or indirectly, engaging in deceptive and unfair practices set forth herein and from violating the Tennessee Consumer Protection Act of 1977 and the Time Share Act of 1981, Tenn. Code Ann. §§ 66-32-101 through 66-32-137.

(5) That this Court make such orders or render such judgments as may be necessary to restore to any consumer or other person any ascertainable losses (including statutory interest) suffered by reasons of the alleged violations of the Tennessee Consumer Protection Act.

(6) That this Court adjudge and decree that the Defendants are liable to the State for the reasonable costs and expenses of the investigation and prosecution of the Defendants' actions, including attorneys' fees, as is provided by Tenn. Code Ann. § 47-18-108(b).

(7) That the Court adjudge and decree that the Defendants pay civil penalties of not more than One Thousand Dollars (\$1,000.00) per violation to the State as provided by Tenn. Code Ann. § 47-18-108(b).

(8) That all costs in this cause be taxed against Defendants.

(9) That this Court grant Plaintiff such other and further relief as this Court deems just and proper.

Respectfully submitted,

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PAUL G. SUMMERS  
Attorney General and Reporter  
B.P.R. No. 6285

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JENNIFER L. RAWLS  
Assistant Attorney General  
B.P.R. No. 13929  
Office of the Attorney General  
Consumer Protection Division  
425 5th Avenue North, 2nd Floor  
(615) 741-2614

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